

the other were in the uninterrupted service of their country.

He would not, of course, intimate that the United States by this investigation and delay desired to favor Spain. It was contrary to the character and dignity of the government; it was in opposition to the known neutrality and spirit of fairness always exercised by the United States towards contending foreign nations. But the effect of such long delays was the same. He, therefore, protested against so much time being granted. It would be wrong. The witnesses who had been held back by their inability to be here to-day could certainly reach the city in two days, and he did not think counsel should ask for longer delay.

Judge Person replied that the postponement asked for was very short. He only desired reasonable time, and had no disposition to urge unnecessary delay. In important cases it was not only necessary to give the witnesses ample time to arrive, but the opportunity also to have interview with counsel. In cases of importance where the question of guilt rested upon the intention of parties, it was necessary to enter into particulars and to examine many witnesses. It was frequently difficult to prove individuals and associations about to commit a violation of the law did not proclaim their intentions. It was as important to the Republic of Cuba as to the United States that there should be a full investigation of this matter. Questions were involved which should be settled. He did not think that the delay of five days would be asking too much.

Mr. O. P. Meares, on the part of the defence, said that the line of conduct pursued by the United States in this case would be marked out and held up as a precedent in detaining American ships of war in foreign ports. Here a ship of war, under regularly commissioned officers under the seal of a *de facto* government, enters an American port in distress and is seized by the government on the charge of a violation of the neutrality laws, and had been detained for a week. Longer time is now asked to get testimony. Foreign governments having no interest in this case would ask what authority the United States had to detain a vessel of a *de facto* government until it had time to search throughout the length and breadth of its territory for testimony. The ruling even in ordinary criminal cases was strict. A State or government makes an allegation of crime at its peril. It had no right to charge a crime without testimony to sustain it. There was never a case before of a government seizing the war vessel of one belligerent and then asking for time to hunt up testimony. It would not do, by a delay in order to protect the neutrality laws, to set a precedent of aiding the other belligerent power. A delay would be giving aid and comfort to Spain.

Judge Meares continued his able protest against further postponement for some time.

Mr. O. P. Lowrey said he made no intimation that such was the intention of the government, but this action was in the interests of Spain. It was tying up one of the vessels of Cuba; while those of Spain were employed in the service of that government. The Cubans are belligerents and have been so acknowledged by the United States. This delay was a capture, not by the United States but by Spain. The courts were indeed made use of, but Spanish agents would hunt up testimony and Spanish gold would suborn witnesses. As yet they had not found testimony—he hoped they would not. The delay was not only wrong on account of the heavy expense attending the detention of the vessel, but it would enable Spanish agents to get up testimony. It was a Spanish and not an American prosecution.

Judge Person denied all knowledge of any persons interesting themselves but the government officers. He knew none other. He came here as the attorney of the government of the United States, and no one else. The government desired only to do its duty to itself and to the friendly world. Judge Person referred to the difficulty in compelling the attendance of witnesses. The officers of the government were busy hunting up their witnesses. It was known that one was on board the steamer Cuba, but the Marshal could not find him. He was told that he had deserted just after the arrival of the steamer in this port. He again declared his desire to ask no unreasonable delay. He desired in all fairness and candor to clear up this matter—to settle the question in regard to the relations of the United States and Cuba. The citizens of both countries desired to know what their rights were, and the question should be settled for all time to come. A fair, just and proper understanding should be arrived at, and a reasonable time should be allowed.

Mr. Davis said, in regard to the witness being "spirited away," that there was a person on board of the Cuba who was believed to be a spy in the pay of other parties, and had so admitted. Before any proceedings had been instituted against the vessel, and before it was believed any would be—for Commodore Higgins supposed he would be treated with all the hospitalities and honors due the representative of a foreign government—this man had deserted.

Commissioner Rutherford said that he understood that the government had used all diligence to procure the attendance of witnesses. The counsel had originally asked for ten days, but he had thought that until to-day would be ample time. He could not see that great harm would result from the reasonable delay now asked by the government. He understood the counsel to say that the government would be ready on Saturday, in any event. He therefore postponed the case until Saturday, 16th inst., at ten o'clock.

THE CUBAN PRIVATEERS.

The Case of the Cuba Before the United States Commissioner—Protest of Commodore Higgins—Character of the Testimony to be Offered—The United States Gunboat Frolic at Wilmington—The Escape of the Cuban Steamer Lillian.

[From the Wilmington (N. C.) Journal, Oct. 12.]

The case of the Cuban steamer Cuba was resumed before Commissioner Rutherford yesterday. At eleven o'clock the court was called to order. George Davis introduced to the court Mr. Grosvenor P. Lowrey, of New York, who was associated with Judge Meares and himself in the defense.

Mr. Lowrey, in behalf of Commodore Higgins, read the following protest and asked that it be filed among the papers in the case:

PROTEST.

I, Edward Higgins, a citizen of the republic of Cuba, duly commissioned and acting as a commander in the navy thereof, now being in command of the public ship-of-war of the said republic called the Cuba, which ship is lying in the port of Wilmington, in the State of North Carolina, in the United States of America, and being cited before Allen Rutherford, Commissioner of the Circuit Court of the United States of America and magistrate for the district in which said ship now lies, to answer for a pretended violation of the laws of the United States of America and to show cause why my said ship should not be detained and libeled for condemnation, do hereby, in the name and for the honor of the said republic of Cuba, solemnly protest against the said Allen Rutherford and all persons and

blatant.

First.—That the said ship is an avowed public ship of war belonging to the republic of Cuba.

Second.—That I am, as aforesaid, a commissioned officer of the navy of the said republic of Cuba, and am and was at the time next hereinafter mentioned in command of the said vessel.

Third.—That on the 2d of October, being at sea and near the coast of the United States, my ship experienced very heavy weather, and becoming very short of coal was, by stress of weather, compelled to seek shelter and coal within the nearest harbor, being the mouth of Cape Fear river.

Fourth.—That while in said harbor waiting for coal a warrant was issued by the said United States Commissioner, commanding the arrest and detention of said ship, which warrant remains in full force and effect.

Fifth.—That upon the return of the said warrant I did at once by my counsel protest, and do now protest, that the said ship is by the law and usage of nations exempt from all arrest, detention or interference by civil or criminal courts, and that for offences against municipal laws of foreign countries she is answerable only to her own country, from which redress is due to the offended nation, if any offence has been committed.

And now, having for the dignity and honor of the republic of Cuba made this protest against the exercise of a jurisdiction over public ships unknown among nations, and being willing and desirous to have the truth known to all persons, and particularly to the citizens of the United States, I do declare that it is untrue that the said vessel has in any of her preparations offended the neutrality laws of the United States of America, in the manner charged or in any other manner; and I aver that the said vessel is now in the same condition in every respect as when she was purchased from the government of the United States in the month of June, 1898, except a few immaterial alterations not relating to her character or use as a war vessel; and except, further, that since the said purchase, and while out of the limits and jurisdiction of the United States, and more than twenty days after her departure therefrom, and after she had entered a British port and had been there seized by the public authorities, examined and discharged and had cleared therefrom; then, and not until then, had she been sold and delivered to the republic of Cuba, and was fitted out and armed upon the high seas and beyond the jurisdiction of the United States and of all other nations.

That all the proceedings aforesaid, so far from being in disregard of the rights and dignity of the United States, were conducted in a careful and true respect therefor, and under the sanction of well established principles of public law.

EDWARD HIGGINS.

Commodore Cuban Navy, commanding Steamer Cuba.

Mr. Lowrey also made a protest of the commission of Commodore Higgins under the seal of the republic of Cuba and signed by General Cespedes, President, under date of February 23, 1899; also the order to Commodore Higgins to take command of the steamer Cuba. (The commission and order were in Spanish. Translated copies are to be filed).

Mr. B. J. Person, on behalf of the government, said that by these papers being filed the issue between the government and the steamer was made up. It was alleged upon the part of the government that this vessel had violated the neutrality laws; that she was fitted up, if not armed, in a port of the United States for the purpose of making war upon a government at peace with the United States. When the case was first heard he had asked for time to procure witnesses in behalf of the government. The counsel for the defence had opposed his application for ten days. The Court granted until to-day. It was soon manifest that the attendance of witnesses could not be procured in time, and he asked that further time until Saturday next be granted. This was longer than the original time asked for, but the efforts to procure witnesses had been delayed by the fact that it was impossible to get them here to-day. He thought that the government would be ready in any event on Saturday. He was indisposed to ask for any unnecessary delay, but it had been impossible to procure the attendance of witnesses sooner. It was the intention of the government to have the witnesses here as soon as possible.

Mr. George Davis replied in substance that the Commissioner would hear him out in the recollection that what had been done in filing the protest was but a repetition of what had been done in solemn form at the first hearing. Counsel then took occasion to protest against the action of the government; had stated the character of the ship, the official position of its commander. As the officers of the government knew of the importance of this case it was reasonable to suppose they would make all possible haste in preparation. All the defence asked was a full, fair and speedy investigation of the matter. Delay would have the effect of condemnation. A ship of one belligerent country was detained in a neutral port while the vessel of

Affidavit of One of the Crew of the Hornet o Cuba.

[Washington correspondence of the Boston Advertiser.]

One of the crew of the Hornet has made an affidavit, which is now in possession of our authorities, setting forth that he was enlisted in New York city; that he received a certain sum of money in advance; that he went on board the Hornet at the time when she was lying off Gay Head, after sailing from Halifax; that the vessel subsequently anchored near New Bedford, where she received from small vessels and bays a part of her guns, coal and ammunition; that later, off Long Island, the Martha Washington and other ships brought the rest of coal, guns and men. The affidavit states that all these supplies were received on board when but a short distance from the shore. Afterwards the captain stated to the crew that the vessel was a Cuban privateer, the Cuban flag was hoisted, and the men paid about thirty dollars each in cash. There is other evidence to the same effect—*i. e.*, that the Hornet was armed within the jurisdiction of the United States. Information of importance has been received in regard to the purchase of the vessel and the movements of those connected with the affair both at Philadelphia and Halifax.

Arrival of the Gunboat Frolic at Wilmington—Action of Her Commander.

[From the Wilmington Journal, Oct. 2.]

Our port was again thrown into a state of curiosity and excitement by the arrival yesterday afternoon of the United States gunboat Frolic, from New York, under orders of the proper department at Washington. The Frolic left New York on the 7th inst., and is commanded by Commander Henry Wilson, of the United States Navy. She has an armament of nine guns, with a full complement of men.

The first act of the commander was to forbid Commodore Higgins, of the Cuban steamship Cuba, from leaving port until the case of his vessel had been definitely decided. In this Commander Wilson stated that he was acting under the orders of the President. The correspondence appears in this issue.

The Frolic will be better recollected as the Advance, purchased during the late war by the State of North Carolina for the purpose of running the blockade and supplying the State troops in the field with the necessary arms and munitions of war, clothing and provisions. She made several successful trips into our port, whereby the necessities of North Carolina soldiers were greatly relieved, but was finally captured by the blockading fleet. Her dimensions, capacity and speed are quite familiar to a large portion of our readers.

Chase of the Cuban Steamer Lillian—Her Escape—A Supposed Spanish War Vessel in Pursuit.

[From the Mobile Tribune, Oct. 9.]

As will be recollected by our readers, orders were received here on Sunday from the State Department directing Lieutenant Bond, of the revenue cutter Delaware, to repair to Cedar Keys, and if possible to intercept the steamer Lillian, supposed to be a Cuban privateer. As the Delaware was on the marine ways, opposite the city, undergoing repairs, the officer in command was obliged to charter the steamer Lone Star for the chase.

The Lone Star left this port on Monday morning at daylight with the officers and crew of the Delaware. Whether she had an armament or not, besides small arms, we are not informed. She proceeded to Cedar Keys, and when she arrived there the bird had flown five hours previously. The Lone Star followed in chase until night, when she gave it up and returned to Cedar Keys, taking possession of a small lot of fixed ammunition, knapsacks, canteens, &c., which were left by the Lillian for want of time.

The Lone Star reports that when the chase was given up they saw a three smokestack steamer in the chase, which was supposed to be the Spanish steamer Churruco.

The Lillian was in command of Captain Harris, who is an old Confederate blockade runner. She is Clyde built, and is a vessel of 1,000 tons, though formerly only 600. She has lately been repaired and enlarged.

The troops were under command of Generals Guerro and Williams, the latter being an old Confederate officer, having served during a portion of the war as a colonel of artillery. The men were principally from New York, and composed of what is known as roughs.

Cargo of the Lillian—A Number of Her Crew Left Behind.

[From the Mobile Register, October 9.]

The cargo of the Lillian consisted of 161 boxes of merchandise, 20 boxes of saddles, 121 cases of clothing, 100 cases of dry goods, 121 boxes of drugs, 14 howitzers in boxes, and various other articles, consigned to Charles W. Fowler, Galveston, Texas. The steamer was owned, as appeared from her license and enrolment, by Henry Steers, of New York, and was commanded by Captain F. M. Harris.

In the absence of Colonel Boyd, the deputy collector at Cedar Keys, who at the time was at Gainesville for the purpose of telegraphing the authorities, the Lillian was cleared by the Mayor of the city and Captain Frank Sheppard, of the steamer Mary.

The Lone Star found at Cedar Keys. First Assistant Engineer George Metz, of the Lillian, and a number of the crew who had left the vessel through some dissatisfaction in relation to wages. The engineer, we understand, wanted \$500 in gold for the round trip to Cuba and back. A part of them took passage to this place in the Lone Star, and the balance in the steamer Mary. The Lillian is considered very fast, though on her trip from New Orleans to Cedar Keys she only made nine knots. If not captured she has by this time reached her destination and discharged her valuable cargo.